

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Ligado's Request that the Commission)	
Initiate a Rulemaking to Allocate the)	RM-11681
1675-1680 MHz Band for Terrestrial)	
Mobile Use Shared with Federal Use)	

COMMENTS OF DISH NETWORK CORPORATION

I. INTRODUCTION AND SUMMARY

DISH Network Corporation ("DISH") submits these comments in response to the Commission's Public Notice¹ seeking input on Ligado's petition to initiate a rulemaking to allocate the 1675-1680 MHz band for non-federal terrestrial mobile use (the "Petition").² Among other things, Ligado requests that the Commission move forward with the reallocation and auction of the 1675-1680 MHz band.³ DISH's comments herein are focused on Ligado's request to auction this band.

First, if the Commission proceeds to auction the 1675-1680 MHz spectrum, the band should be licensed on an Economic Area ("EA") basis, consistent with the Commission's approach in licensing several previous bands, including the AWS-3 and H Block spectrum. Second, the Commission should reject Ligado's request to obtain bidding credits for the

¹ See Comment Sought to Update the Record on Ligado's Request that the Commission Initiate a Rulemaking to Allocate the 1675-1680 MHz Band For Terrestrial Mobile Use Shared with Federal Use, *Public Notice*, RM-11681 (rel. Apr. 22, 2016) ("*Public Notice*").

² See Petition of LightSquared Subsidiary LLC for Rulemaking (filed Nov. 2, 2012).

³ See Letter from Gerard J. Waldron, Counsel to New LightSquared, to Marlene H. Dortch, FCC, IB Docket No. 12-340; IB Docket No. 11-109; IBFS File Nos. SAT-MOD- 20120928-00160; SAT-MOD-20120928-00161; SES-MOD-20121001-00872, at 1 (filed Dec. 31, 2015) ("*December Ex Parte*").

proposed 1675-1680 MHz auction. As an initial matter, Ligado fails to demonstrate that it deserves to be compensated in any fashion under its proposal, because it never actually held the terrestrial rights it purports to be giving up. There is, moreover, no legal basis supporting Ligado's request for bidding credits. Finally, there is no public interest benefit to support Ligado's receipt of any bidding credits in the event the FCC auction the 1675-1680 MHz band at all.

II. IF AUCTIONED, THE 1675-1680 MHZ BAND SHOULD BE LICENSED ON AN EA BASIS

If the Commission grants the Petition and auctions the 1675-1680 MHz band, it should adopt an EA licensing approach. An EA licensing scheme is consistent with the Commission's approach in similar previously auctioned bands, including (i) the H, J, I, A1 and B1 Blocks in the AWS-3 band, (ii) the H Block at 1995-2000 MHz, and (iii) the AWS-1 B and C Blocks.⁴ As the Commission has found previously, geographic licensing, including EA licensing, is flexible enough to meet the needs of industry participants of all sizes.⁵ Licenses based on EAs are better for carriers seeking to cover more targeted geographic areas, yet EA licenses can be aggregated into to larger license areas such as MEAs or nationwide coverage.⁶ The Commission has also

⁴ See Amendment of the Commission's Rules with Regard to Commercial Operations in the 1695- 1710 MHz, 1755-1780 MHz, and 2155-2180 MHz Bands, *Report and Order*, GN Docket No. 13-185, ¶ 49 (Mar 31, 2016); Service Rules for Advanced Wireless Services H Block—Implementing Section 6401 of the Middle Class Tax Relief and Job Creation Act of 2012 Related to the 1915-1920 MHz and 1995-2000 MHz Bands, *Report and Order*, WT Docket No. 12-357, ¶ 13 (Jun. 27, 2013) (“*H Block R&O*”).

⁵ See, e.g., *H Block R&O* ¶ 39 (“We believe that [EA licensing] will facilitate access by smaller carriers because EAs are small enough to provide spectrum access opportunities to such carriers.”)

⁶ In the Matter Of Service Rules For Advanced Wireless Services In The 2000-2020 MHz And 2180-2200 MHz Bands, *Report and Order and Order of Proposed Modification*, WT Docket Nos. 12-70, 04-356, ET Docket No. 10-142, ¶ 50 (rel. Dec. 17, 2012).

found that licensing on an EA basis “will help us to meet several statutory goals, including providing for the efficient use of spectrum; encouraging deployment of wireless broadband services to consumers; and promoting investment in and rapid deployment of new technologies and services.”⁷ Given the Commission’s determination in several recent auctions that auctioning spectrum on an EA basis promotes competition from regional carriers and encourages more robust broadband buildout, that same licensing approach should be used in any auction of the 1675-1680 MHz band.

III. THE COMMISSION SHOULD REJECT LIGADO’S REQUEST FOR BIDDING CREDITS

DISH urges the Commission to reject Ligado’s request for bidding credits for the 1675-1680 MHz band if it proceeds to auction that spectrum. Ligado’s request for bidding credits is premised on the assertion that it would be abandoning the 1545-1555 MHz band to effectuate its “comprehensive proposal.”⁸ But, Ligado is not “abandoning” any previously defined terrestrial use rights pertaining to the 1545-1555 MHz band. Indeed, Ligado is authorized to use its licensed spectrum, including 1545-1555 MHz, for satellite communications, the original purpose of the spectrum. The full terrestrial rights the FCC considered authorizing for this spectrum by conditional waiver were vacated in 2012.⁹ Additionally, what terrestrial authority Ligado may

⁷ *H Block R&O* ¶ 37.

⁸ *December Ex Parte* at 4.

⁹ *International Bureau Invites Comment on NTIA Letter Regarding LightSquared Conditional Waiver*, Public Notice, DA 12-214 (Feb. 15, 2012) (proposing to vacate the “*Conditional Waiver Order*, which is currently the subject of petitions for reconsideration, due to LightSquared’s inability to address satisfactorily the legitimate interference concerns surrounding its planned terrestrial operations, and the appearance that the Interference Resolution Process has no realistic prospect of being successfully completed by LightSquared in a reasonable period of time.”); *see also* Eliza Krigman, *Lights out for LightSquared?*, POLITICO (Feb. 15, 2012), <http://www.politico.com/story/2012/02/lights-out-for-lightsquared-072909>.

have had in the past was conditioned on NTIA approval, which Ligado never received.

Therefore, there is no need to compensate Ligado through bidding credits for rights it never held in the first place.

There is, moreover, no legal basis for Ligado's suggestion that bidding credits should be awarded to Ligado under any circumstances. Bidding credits generally are issued in limited circumstances to address a specific policy goal.¹⁰ Bidding credits are thus not a general medium of exchange for parties to seek compensation from the Commission. Rather, bidding credits are a creation of Congress to address specific policy objectives, and Ligado has not shown any legal basis for why a bidding credit of any kind should be issued in support of its proposal. And, since Ligado is not being deprived of any rights that it had before, there is no public benefit to issuing such bidding credits.

IV. CONCLUSION

DISH respectfully requests the Commission adopt the proposals discussed herein if it chooses to move forward auctioning with the 1675-1680 MHz band pursuant to Ligado's request.

Respectfully submitted,

/s/

Jeffrey H. Blum, Senior Vice President
& Deputy General Counsel
Alison Minea, Director and Senior Counsel,
Regulatory Affairs
Hadass Kogan, Corporate Counsel
DISH NETWORK CORPORATION
1110 Vermont Avenue, N.W., Suite 750
Washington, D.C. 20005
(202) 293-0981

June 21, 2016

¹⁰ See 47 C.F.R. § 1.2110(a).